

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL DOCKET NO. 09-375
v.	*	SECTION: "J"
DONNA WHITE DANIEL KINNEY	*	VIOLATIONS: 18 U.S.C. § 1341
	* * *	

FACTUAL BASIS

If this case had gone to trial, the Government would prove the following beyond a reasonable doubt through competent evidence and tangible exhibits:

Witnesses would testify that John W. Stone Oil Distributor, L.L.C., (hereinafter referred to as J.W. Stone) has operated a midstream and dock fueling business in the Port of New Orleans, and throughout Louisiana, since 1946. J.W. Stone has six locations, including Belle Chasse and Gretna, which are both located in the Eastern District of Louisiana. J.W. Stone provides these services to various legitimate companies including Vastar, Apex, Harper, and Kiesel.

Records would show that **DONNA WHITE** (hereinafter referred to as **WHITE**) was employed by J.W. Stone from 1995 until October 29, 2007. **WHITE's** duties were to review

payments received by customers (including Vastar, Apex, Harper, and Kiesel) and to match them with invoices for work performed. She would also reconcile overpayments by these customers.

In the event of an overpayment resulting in a credit on the books, or from any reserve cash account, **WHITE** would fill out J.W. Stone documents that would cause a check to be written from an account with excess funds. Under normal operating procedure, **WHITE** would then take the check to accounts payable, in order to get two signatures from company officers. Accounts payable would then return the signed checks to **WHITE** for disbursement to **KINNEY**.

Records would show that **WHITE** had personal bank accounts at Mississippi River Bank and Regions Bank.

DANIEL KINNEY (hereinafter referred to as **KINNEY**) is the long time boyfriend of White's sister.

Witnesses from various banks would testify to the following:

KINNEY opened a bank account in the name of Vastar at Mississippi River Bank in Plaquemines Parish on July 30, 1996, listing an address in Harvey, Louisiana. **KINNEY** is not affiliated with, and has never worked for the company, Vastar, that does business with J.W. Stone.

KINNEY opened a bank account in the name of Danco at Regions Bank of Metairie, Louisiana on August 14, 1995, listing an address in Harvey, Louisiana. Danco has never been a customer of J.W. Stone. **KINNEY** opened a bank account in the name of Apex at Kentucky Trust Bank on May 5, 2005. This particular account was closed in late 2006, and opened a new account in the name of Apex at J.P. Morgan Chase Bank in Kentucky January of 2007.

KINNEY is not affiliated with and has never worked for the company, Apex, that does business with J.W. Stone.

KINNEY opened a bank account in the name of Harper at Kentucky Trust Bank on August 5, 2003 . The account was closed in late 2006, and opened a new account in the name of Harper in January of 2007, at J.P. Morgan Chase Bank in Kentucky. **KINNEY** is not affiliated with and has never worked for the company, Harper, that does business with J.W. Stone.

KINNEY opened a bank account in the name of Kiesel at Kentucky Trust Bank on July 21, 2003 . The account was closed in late 2006, and opened a new account in the name of Kiesel in January of 2007, at J.P. Morgan Chase Bank in Kentucky. **KINNEY** is not affiliated with and has never worked for the company, Kiesel, that does business with J.W. Stone.

Testimony would show that Mississippi River Bank and Regions Bank are financial institutions located in Belle Chasse, Louisiana, (Eastern District of Louisiana) and elsewhere, whose deposits are insured by the Federal Deposit Insurance Company. **WHITE** and **KINNEY** had ownership, dominion and control over their respective bank accounts at Mississippi River Bank and Regions Bank.

Kentucky Trust Bank is a financial institution with a branch located in Owensboro, Kentucky, and elsewhere, whose deposits are insured by the Federal Deposit Insurance Company. **KINNEY** had ownership, dominion and control over his accounts at Kentucky Trust Bank.

J.P. Morgan Chase Bank is a financial institution with a branch located in Louisville, Kentucky, and elsewhere, the deposits of which are insured by the Federal Deposit Insurance Company. **KINNEY** had ownership, dominion and control over his accounts at J.P. Morgan Chase Bank.

A witness would testify that the United Parcel Service (hereinafter referred to as UPS) was used as a method of delivery for stolen checks between **WHITE** and **KINNEY**. UPS was a commercial interstate carrier as defined in Title 18, United States Code, Section 1341 (the mail fraud statute).

Testimony would show that Premier Motorsports is a company founded by **KINNEY**. Premier Motorsports fields teams, owns race cars and has competed in the NASCAR Busch Series, ARCA Re/Max Series, NASCAR Dodge Weekly Series as well as WKA Kart Racing events for the past 10 years.

Records would be introduced to prove that from on about August 1995, and continuing until October 29, 2007, in the Eastern District of Louisiana and elsewhere, **DONNA WHITE** and **DANIEL KINNEY** did knowingly and willfully devise and intend to devise a scheme and artifice to defraud and to obtain money and/or property by means of false pretenses, promises and representations by knowingly stealing checks and funds belonging to J.W. Stone, and depositing them into their personal accounts at Mississippi River Bank, Regions Bank, Kentucky Trust Bank, and J.P. Morgan Chase Bank, in order to divert to their personal benefit the stolen funds and property so generated.

A witness would testify that it was further a part of the scheme and artifice to defraud that **WHITE** and **KINNEY** came up with the idea of defrauding J.W. Stone, by making it appear as if certain companies were owed money due to overpayments. **WHITE** had to circumvent normal operating procedures at J.W. Stone, in order to carry out the scheme. **WHITE** made check requests to the accounting department, and **WHITE** would either tell the employees that she would get the required signatures or the employees would return the checks to **WHITE** for

eventual disbursement to **KINNEY**. **WHITE** provided **KINNEY** with the names of four companies, Vastar, Apex, Harper, and Kiesel, that did business with J.W. Stone.

Evidence would show that **WHITE** and **KINNEY** discussed **KINNEY** opening bank accounts in the names of those companies, Vastar, Apex, Harper, and Kiesel. Records would show that a Vastar bank account was opened by **KINNEY** at Mississippi River Bank Trust in 1996. An Apex bank account was opened by **KINNEY** at Kentucky Trust Bank on May 5, 2005. A Harper bank account was opened by **KINNEY** at Kentucky Trust Bank on August 5, 2003. A Kiesel bank account was opened by **KINNEY** at Kentucky Trust Bank on July 21, 2003. **KINNEY** also had control over a personal account at Kentucky Trust Bank. **KINNEY** opened a Danco bank account at Regions Bank in on August 14, 1995. **WHITE** used her bank accounts at Regions Bank, which had already been opened on March 17, 1997, to funnel money to **KINNEY**.

Testimony would show that once **WHITE** got the required signatures for the purported overpayments, the checks were then available to be stolen. **WHITE** would then take the stolen J.W. Stone checks and either deposit them into their respective bank accounts, hand deliver stolen J.W. Stone checks to **KINNEY**, cash the stolen checks, or use UPS to mail the checks to **KINNEY**.

Once stolen J.W. Stone checks were deposited into the respective accounts, **KINNEY** would then write out checks to his other accounts, or provide blank signed checks to **WHITE**. **WHITE** would then deposit those checks into one of her personal accounts, or withdraw cash.

Two witnesses would testify that from on or about January 31, 2001 through on or about July 31, 2007, approximately seventy-nine (79) J.W. Stone checks were deposited into

KINNEY's Vastar account at Mississippi River Bank, totaling approximately \$4,700,000. From on or about January 31, 2001 through on or about June 29, 2007, approximately seventy-eight (78) J.W. Stone checks were deposited into **KINNEY**'s Danco account at Regions Bank, totaling approximately \$4,400,000. From on or about August 20, 2003 through on or about May 31, 2007, approximately forty-one (41) J.W. Stone checks were deposited into **KINNEY**'s Harper accounts at Kentucky Trust Bank and J.P. Morgan Chase Bank, totaling approximately \$855,000. From on or about July 31, 2003 through on or about May 31, 2007, approximately forty (40) J.W. Stone checks were deposited into **KINNEY**'s Kiesel accounts at Kentucky Trust Bank and J.P. Morgan Chase Bank, totaling approximately \$1,600,000. From on or about May 31, 2005 through on or about July 31, 2007, approximately twenty-six (26) J.W. Stone checks were deposited into **KINNEY**'s Apex accounts at Kentucky Trust Bank and J.P. Morgan Chase, totaling approximately \$1,000,000.

Three witnesses would testify that on or about September 7, 2006, the defendants, **WHITE** and **KINNEY**, for the purpose of executing the scheme and artifice to defraud, knowingly and willfully caused to be delivered by mail according to the direction thereon, a UPS package containing two stolen J.W. Stone checks for the personal benefit of **WHITE** and **KINNEY**, as set forth below:

COUNT	DATE	CHECK	SENDER	SIGNED FOR BY	TRACKING	PAYEE	CARRIER	AMOUNT
1	09/07/06	#32130	DONNA WHITE	DAN KINNEY	1Z26854W2210002249	KIESEL	UPS	\$27,297.79
1	09/07/06	# 92129	DONNA WHITE	DAN KINNEY	1Z26854W2210002249	APEX	UPS	\$24,448.99

The UPS package would be introduced into evidence to show that the package was sent from **WHITE** to **KINNEY**, that upon receipt he signed for the package contained the two stolen J.W. Stone checks. Witnesses would testify that the payees, Kiesel and Apex, were accounts in the name of **KINNEY**, and had no relation to the companies of the same names that did actual business with J.W. Stone. Witnesses would further testify that neither **WHITE** or **KINNEY** performed any work for check number 32130 or check number 92129.

_____A witness from UPS would testify that UPS was a commercial interstate carrier as defined in Title 18, United States Code, Section 1341 (the mail fraud statute). UPS was used as the method of delivery to transport the two stolen checks from **WHITE** to **KINNEY**.

Bank records and a financial analyst would prove that as a result of the scheme, **WHITE** and **KINNEY** fraudulently obtained approximately \$12,700,000, which was misappropriated to pay for personal expenses, gambling, as well as to start a racing team.

The above information comes from an investigation conducted by Special Agents of the Federal Bureau of Investigation and the United States Postal Service, numerous records subpoenaed

into a federal grand jury, interviews conducted during the investigation, and from the recorded statements of **WHITE** and **KINNEY**.

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DAN KINNEY
Defendant

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New Orleans, Louisiana
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